

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion is respectfully requested.

Claims 1-20 are currently pending in the application; Claims 1, 3, 6, 11 and 16 are amended by the present amendment. Support for the amended claims can be found in the original specification, claims and drawings.¹ Thus, no new matter is presented.

In the outstanding Official Action, Claim 3 was objected to because of a minor informality; and Claims 1-20 were rejected under 35 U.S.C. § 103(a) as unpatentable over Sharp et al. (U.S. Patent No. 6,263,317, hereinafter “Sharp”) in view of Salvo et al. (U.S. Patent No. 6,341,271, hereinafter “Salvo”) and Official Notice.

Claim 3 was objected to because, as stated in the outstanding Official Action, “the language ‘said new product is stored’ should be changed to ‘said new product is to be stored’”² In response, Claim 3 is amended to incorporate the recommendation set forth in the outstanding Official Action. Accordingly, Applicants respectfully request that the objection to Claim 3 be withdrawn.

Applicants respectfully submit that amended independent Claims 1, 6, 11 and 16 state novel features clearly not taught or rendered obvious by the applied references.

Amended Claim 1 relates to a distribution management device including means for receiving first order information and second order information of merchandise over a network. The first order information is formed based on a purchase request received over a first sales channel using the network and second order information is formed based on a second purchase request received over a sales channel which is a point-of-sale location that does not use the network. A stock control means then controls a stock of merchandise to be distributed to the first and second sales channels based on the received first and second order

¹ Specification at Fig. 2.

² Outstanding Official Action at page 2, first paragraph.

information. A supply instruction means then grasps an actual sales condition of the merchandise in the first and second sales channels based on the received order information and stock control information supplied from the stock control means then instructs a supplier of the merchandise to supply the merchandise based on the actual sales condition.

An exemplary, non-limiting embodiment is depicted in Fig. 2. Specifically, order information from Internet, telephone, or retail outlet sales may be reported to a distribution management center which is then able to issue instructions to a distribution center so that a supply of the merchandise to be sold is adequately distributed to each of the locations from which the merchandise is distributed. Such a system allows for increased flexibility, reliability and efficiency in a retail supply chain.

Turning to the applied references, Sharp describes a web sales channel conflict resolution system. Specifically, Sharp describes a web-based system in which customers can place orders for brand name products and these orders are allocated to manufacturers, distributors and retailers according to distribution channel protocols defined by the manufacturers. This ensures that the sales of brand name goods and services via the Internet does not violate existing distribution agreements between the manufacturers and the respective distributors and retailers.³

Salvo describes an inventory management system and a method which automatically monitors inventory amounts, provides information concerning inventory, and decides if an order for replacement inventory should be placed.⁴ The system includes a storage for inventory, an indicator for monitoring and reporting the level of current inventory, and a controller for receiving information from different inventory suppliers and for integrating such information with information on current inventory amounts and estimated future use.

³ Sharp at abstract.

⁴ Salvo at abstract.

Salvo's system is specifically directed to detecting the amount of inventory remaining in receptacles at a manufacturing site using a variety of sensors.⁵

The requirements for a *prima facie* case of obviousness are (1) there must be some suggestion or motivation in the references themselves to modify the reference or to combine the reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art reference must teach or suggest all the claim limitations. It is respectfully submitted that the outstanding Official Action fails to make a *prima facie* case of obviousness because Sharp and/or Salvo neither alone nor in combination teach or suggest all the elements recited in amended independent Claims 1, 6, 11 and 16. Amended Claim 1 recites, *inter alia*, a distribution management device, comprising:

“... a second purchase request received via a second sales channel which is a point-of-sale location that does not use the network;
stock control means for controlling a stock of said merchandise to be distributed to the first and second sales channels based on the first and the second order information
...”

Amended independent Claims 6, 11 and 16 recite substantially similar features but are directed to alternative statutory classes. Accordingly, the arguments presented below apply to each of Claims 1, 6, 11 and 16.

The outstanding Official Action relies upon Sharp as describing a stock control means for controlling a stock of said merchandise to be distributed based on the first and second order information. However, amended Claim 1 recites that the second sales channel is a point-of-sale location. Therefore, the claimed stock control means controls stock and merchandise to be distributed to the first sales channel and a point-of-sale location based on the first and second order of information.

⁵ Salvo at col. 4, lines 12-67.

In contrast, Sharp simply describes a process of routing an order which has been submitted over the Internet to an appropriate manufacturer, distributor or retailer to be filled and shipped. Accordingly, the order data can be received over a network connection, and the merchandise is packaged and shipped from one of a plurality of locations to the user. At no point does Sharp teach or suggest a means for controlling a stock of merchandise to be distributed to a plurality of sales channels based on order information, much less that such stock can be distributed to a point-of-sale location, as recited in amended Claim 1.

As discussed above, Salvo describes that inventory at a plurality of receptacles is monitored so that a determination is made when the inventory at a specific receptacle falls below a predefined level, at which time additional material is ordered from a manufacturer.⁶

However, Salvo fails to teach or suggest a means for controlling a stock of merchandise to be distributed to a plurality of sales channels, one being a point-of-sale location, based on order information, as recited in amended Claim 1. Instead, Salvo describes only that an amount of inventory at a centralized location is tracked and that the inventory stored at this location may be replenished by ordering additional inventory from a manufacturer⁷. Thus, Salvo is concerned only with the stock of merchandise stored at a central location and fails to teach or suggest a means for controlling a stock of merchandise to be distributed to a plurality of sales channels, as recited in amended Claim 1.

Further, neither Sharp nor Salvo teach or suggest an order information receiving means that receives first and second order information based on an order received by a first sales channel using a network and a second sales channel which is a point-of-sales location, as recited in amended Claim 1. The outstanding Official Action takes Official Notice that “it

⁶ Salvo at Abstract.

⁷ Salvo at col. 7, line 38-col. 8, line 4.

was well known in the art of commerce for a second sales channel... to make a purchase that does not use a network...”⁸

However, the outstanding Official Action fails to address that order information related to one of these “sales channels” is received by the distribution management device over a network, as recited in amended Claim 1. Further, based on the order information received over the network from the point-of-sale terminal, the distribution management device is able to distribute stock to the point-of-sale location. Neither Sharp nor Salvo teach or suggest this above-noted claim feature, and Applicants respectfully submit that such a feature is not capable of instant and unquestionable demonstrations being “well-known” in the art, which are attributes necessary for the reliance on Official Notice. *In re Ahlert*, 424 F.2d 1088, 165 USPQ 418, 420 (CCPA 1970).

Accordingly, Applicants respectfully request the rejection of Claims 1, 6, 11 and 16 under 35 U.S.C. § 103(a) be withdrawn. As Claims 2-5, 7-10, 12-15, and 17-20 depend, respectively, from the above-noted independent claims, Applicants respectfully submit that these claims also patentably define over Salvo and Sharp.

⁸ Outstanding Official Action at page 3, paragraph 3.

Consequently, in view of the present amendment and in light of the foregoing comments, it is respectfully submitted that the invention defined by Claims 1-20 is patentably distinguishing over the applied references. The present application is therefore believed to be in condition for formal allowance and an early and favorable action is therefore respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

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